

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**Salisa Issa; Fiston Rukengeza; and Salia
Issa and Fiston Rukengeza as next
friends of their unborn child,
*Plaintiffs,***

v.

**Texas Department of Criminal Justice;
Lt. Brandy Hooper, individually; Lt.
Desmond Thompson, individually; and
Assist. Warden Alonzo Hammond,
individually,**

Defendants.

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1:22-CV-01107-ADA

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

Before the Court is the Report and Recommendation of United States Magistrate Judge Susan Hightower. ECF No. 36. The Report recommends that Defendant Texas Department of Criminal Justice's Motion to Dismiss Plaintiffs' Second Amended Complaint (ECF No. 20) and Defendants Lt. Brandy Hooper, Lt. Desmond Thompson and Assistant Warden Alonzo Hammond's Motion to Dismiss Plaintiffs' Second Amended Complaint Dismiss (ECF No. 21) be **GRANTED-IN-PART and DENIED-IN-PART**. The Report and Recommendation was filed on August 1, 2023.

A party may file specific, written objections to the proposed findings and recommendations of the magistrate judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A district court need not consider “[f]rivolous, conclusive, or general objections.”

Battle v. U.S. Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987) (quoting *Nettles v. Wainwright*,

677 F.2d 404, 410 n.8 (5th Cir. 1982) (en banc), *overruled on other grounds by Douglass v. United States Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996)).

Plaintiffs filed objections on August 14, 2023. ECF No. 37. And Defendants filed objections on August 15, 2023. ECF No. 38. The Court has conducted a *de novo* review of the motion to dismiss, the responses, the report and recommendation, the objections to the report and recommendation, and the applicable laws. After that thorough review, the Court is persuaded that the Magistrate Judge's findings and recommendation should be adopted.

IT IS THEREFORE ORDERED that the Report and Recommendation of United States Magistrate Judge Hightower, ECF No. 36, is **ADOPTED**.

IT IS FURTHER ORDERED that the parties' objections are **OVERRULED**.

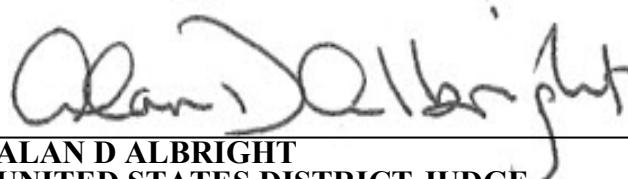
IT IS FINALLY ORDERED that Defendant Texas Department of Criminal Justice's Motion to Dismiss Plaintiffs' Second Amended Complaint (ECF No. 20) and Defendants Lt. Brandy Hooper, Lt. Desmond Thompson and Assistant Warden Alonzo Hammond's Motion to Dismiss Plaintiffs' Second Amended Complaint Dismiss (ECF No. 21) are **GRANTED-IN-PART and DENIED-IN-PART** in accordance with the Report and Recommendation.

The Court hereby **DISMISSES** Plaintiffs' Texas Labor Code claims against TDCJ for lack of jurisdiction under Rule 12(b)(1) without prejudice and **DISMISSES** Plaintiffs' Title VII and Rehabilitation Act hostile work environment claims against TDCJ under Rule 12(b)(6) with prejudice. The Court also **DENIES** TDCJ's Motion to Dismiss Plaintiffs' disparate treatment and disparate impact claims under Title VII and the Rehabilitation Act and Plaintiffs' claims under the FMLA.

The Court hereby **DISMISSES** under Rule 12(b)(6) with prejudice Plaintiffs' (1) substantive due process claims for bodily integrity, right to be a parent, and right to life, and (2)

equal protection claim based on a hostile work environment, against the Individual Defendants. The Court also **DENIES** the Individual Defendants' Motion to Dismiss Plaintiffs' equal protection claims for sex-based disparate treatment and impact.

SIGNED this 18th day of August, 2023.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE